

Message Text

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ORIGIN L-03

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E.O. 11652: N/A

TAGS: ETEL, ITU

SUBJECT: UN PRACTICE ON REIMBURSING EMPLOYEES FOR US TAXES

REFS: A) GENEVA 4074, B) STATE 118145, C) GENEVA 2608

1. DEPT REMAINS OF THE VIEW THAT ITU-US TAX REIMBURSEMENT AGREEMENT DOES NOT OBLIGATE US TO PAY TO ITU AMOUNTS UTILIZED TO REIMBURSE US CITIZEN EMPLOYEES FOR TAX ON PENSION PAYMENTS IF THOSE PENSION PAYMENTS BECAME DUE AND PAYABLE AFTER THE INDIVIDUAL LEFT THE EMPLOY OF THE ITU.

2. THIS CONCLUSION IS BASED ON THE WORDING OF THE AGREEMENT: "THIS CHARGE WILL COVER ACTUAL REIMBURSEMENTS MADE
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BY THE ITU TO EMPLOYEES SUBJECT TO U.S. INCOME TAXES."
THIS CONCLUSION IS ALSO BASED ON THE PURPOSE OF THE AGREEMENT, WHICH WAS TO EQUALIZE THE TREATMENT OF US CITIZEN EMPLOYEES. OTHER EMPLOYEES ARE EXEMPT FROM TAXATION BECAUSE OF ART 19 OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES, WHICH REFERS TO THE EXEMPTION FROM TAXATION IN ART 18 OF THE CONVENTION ON THE

PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS. THE UN LEGAL OFFICE HAS INTERPRETED ART 18 AS GRANTING EXEMPTION FROM TAXES ON SALARY OR PENSION PAYMENTS ONLY IF THEY BECOME DUE AND PAYABLE WHILE THE INDIVIDUAL IS AN EMPLOYEE OF THE ORGANIZATION. THE UN LEGAL OFFICE HAS STATED THAT

THE EXEMPTION DOES NOT APPLY TO PENSION PAYMENTS WHICH BECOME DUE AND PAYABLE AFTER THE PERSON HAS LEFT THE EMPLOY OF THE ORGANIZATION.

3. DEPT HAS NOTED YOUR UNDERSTANDING OF THE RULES OF THE UN JOINT STAFF PENSION FUND TO THE EFFECT THAT LUMP SUM PENSION PAYMENTS ARE NOT DUE AND PAYABLE WHILE THE INDIVIDUAL IS AN EMPLOYEE OF THE ORGANIZATION (REFTEL A). HOWEVER, DEPT UNDERSTANDS THAT THE UN LEGAL OFFICE HAS TAKEN THE POSITION THAT LUMP SUM PENSION PAYMENTS ARE DUE AND PAYABLE WHILE INDIVIDUAL IS AN EMPLOYEE. IF INTERPRETATION OF MISSION IS CORRECT, THIS HAS RAMIFICATIONS FOR ENTIRE UN SYSTEM.

4. DEPT HAS REQUESTED ADDITIONAL INFORMATION FROM UN LEGAL OFFICE ON THIS QUESTION.

5. UNTIL WE HAVE RECEIVED ADDITIONAL INFORMATION FROM THE UN, MISSION SHOULD CONTINUE TO SAY THAT US INTERPRETS TAX REIMBURSEMENT AGREEMENT TO COVER ONLY TAXES ON PAYMENTS MADE TO AN INDIVIDUAL WHICH WERE DUE AND PAYABLE WHILE HE WAS AN EMPLOYEE OF THE ORGANIZATION. VANCE

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Sent Date: 26-May-1977 12:00:00 am
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Disposition Case Number: n/a
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